

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

TALMADGE WADE PORTER
TX-1333615-R

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DOCKETED COMPLAINT NO.
08-010 & 09-022

AGREED FINAL ORDER

On this the 21st day of August, 2009, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Talmadge Wade Porter (Respondent).

In order to conclude this matter Talmadge Wade Porter neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent Talmadge Wade Porter is a Texas state certified residential real estate appraiser, holds certification number TX-1333615-R, and has been certified by the Board during all times material to the above-noted complaint cases.
2. On or about May 19th, 2005 and May 22nd, 2006, Respondent appraised real property located at 1307 Interstate 40 West, Amarillo, Texas 79106 ("the Interstate property") and 4400 West Farmers Avenue, Amarillo, Texas 79110 ("the Farmers property"), respectively.
3. Thereafter, the Complainant, Deloris Kraft-Longoria, filed a separate staff-initiated complaint with the Board regarding each property, which was based on allegations that the Respondent had produced appraisal reports that were in violation of the Uniform Standards of Professional Appraisal Practice ("USPAP").
4. Thereafter, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103, notified Respondent of the nature of the accusations involved in the complaints and Respondent was afforded an opportunity to respond to the accusations in the two complaints. Respondent's responses to the complaints were received.

5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal reports for both properties:
- a) Respondent failed to comply with the record keeping provisions of USPAP's Ethics Rule for both properties;
 - b) Respondent failed to comply with the Scope of Work Rule by not identifying the type and extent of data researched or the type and extent of the analysis applied in his Interstate property appraisal report;
 - c) Respondent failed to provide a brief summary of his supporting rationale for his determination of both properties' highest and best use;
 - d) Respondent failed to identify and report the site and improvement(s) description for the Interstate property adequately by not adequately addressing the property's effective age and location and how these impacted value;
 - e) Respondent failed to provide support for his analysis and conclusions concerning site value for both properties, and failed to employ appropriate methods or techniques to develop a site value determination for both properties. He also failed to verify, analyze and reconcile accrued depreciations in the Interstate property, particularly with regard to effective age and functional obsolescence issues that needed to be identified and addressed, but were not. Generally, Respondent failed to employ recognized methods and techniques in his cost approach analysis for both properties;
 - f) Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately by selecting inappropriate sales as comparables, did not make appropriate adjustments to the sales he did use and generally did not employ recognized methods and techniques in his sales comparison approach for both properties;
 - g) Respondent failed to employ recognized methods and techniques in his income approach for both properties. He failed to collect, verify, analyze and reconcile comparable rental data for both properties, failed to report and analyze comparable operating expenses for the Farmers property, failed to provide data in his report or work file to support his gross rent multiplier determinations for the Farmers property and in the Interstate property, misrepresented the rental amount in one of his comparable sales, which resulted in an inflated gross rent multiplier. Respondent also failed to base his projections of future rent or income potential and expenses on reasonable, clear and appropriate evidence for both properties;
 - h) Respondent failed to analyze and report on the agreement of sale for the Interstate property;

- i) Respondent failed to report a previous sale of the Farmers and of the Interstate property, both of which occurred within 3 years prior to the effective date of his appraisal reports; and,
- j) Respondent's reports for both properties contain substantial errors of omission and commission as detailed above which resulted in misleading appraisal reports for both properties which were not credible.

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule (record keeping provisions); USPAP Standards Rules: 1-2(f) & 2-2(b)(vii); 1-3(b) & 2-2(b)(x); 1-2(e)(i) & 2-2(b)(iii); 1-4(b)(i) & 2-2(b)(ix); 1-4(b)(iii) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-4(c)(i) & 2-2(b)(ix); 1-4(c)(ii) & 2-2(b)(ix); 1-4(c)(iii) & 2-2(b)(ix); 1-4(c)(iv) & 2-2(b)(ix); 1-1(a) & 1-4(c); 1-5(a) & 2-2(b)(ix); 1-5(b) & 2-2(b)(ix); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Have his certification suspended for eighteen months with that suspension being fully probated under the under the following conditions:
 - i. During the entire eighteen month probation period Respondent shall submit on a form prescribed by the Board, an appraisal experience log to the Board every three months. The log shall detail all real estate appraisal activities he has conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting that the log is true, complete and fully accurate. Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments he performs during the course of his period of probation within twenty days of notice of any such request;
 - ii. Respondent shall timely complete all of the remedial coursework required in this Order;

- iii. Respondent shall pay to the board an administrative penalty of \$1,000.00;
- b. Attend and complete a minimum, 15 classroom-hour course in USPAP;
 - c. Attend and complete a minimum, 15 classroom-hour course in Residential or Small Property Income Approach;
 - d. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;
 - e. Attend and complete a minimum, 15 classroom-hour course in Highest and Best Use; and,
 - f. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be tendered within **TWENTY DAYS** of the date of this Agreed Final Order.

Failure to timely comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent as provided for by TEX. OCC. CODE § 1103.518, including, but not limited to, revocation of the above-noted probation.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

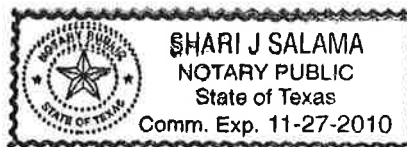
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 3rd day of August, 2009.

Talmadge Wade Porter
TALMADGE WADE PORTER

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 3 day of July, 2009, by TALMADGE WADE PORTER, to certify which, witness my hand and official seal.

Shari J Salama
Notary Public Signature



Shari J Salama
Notary Public's Printed Name

Signed by the Commissioner this 21st day of August, 2009.

[Signature]
Loretta DeHay, Interim Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 21st day of August, 2009.

[Signature]
Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board